

REMARKS/ARGUMENTS**Status of the Claims**

Claims 14-31 are currently pending and method claims 14-21 and 27-30 have been
5 withdrawn from consideration. Claims 14, 20, 22, 23, 25 and 27 are currently amended.
Claims 14 and 22 have been amended to add the structure of an air lock, supported by at
least paragraphs [0041] and [0051] of the specification, and to recite a heating means as
supported by at least paragraphs [0039] and [0052] of the specification. Claim 23 has been
amended to add a means for keeping the temperature between a fixed range as supported
10 by at least paragraphs [0039] and [0052]. Claim 27 has been amended to add that the
concentrate is restricted from ambient air as supported by at least paragraph [0051] of the
specification. Claims 29-31 are new and are supported at least by paragraphs [0049] and
[0052] of the specification, the concentrate is extracted at 90-92° C and the storage vessel
is maintained at 90-92° C. Therefore, it is believed that no new matter has been added at
15 this time. Favourable reconsideration is respectfully requested.

Interview Summary

The undersigned would like to thank the Examiner for the interview conducted on
September 8, 2010. It is believed that the present amendments to the application are in the
20 scope of those discussed during the interview. Additionally, as discussed during the
interview, the undersigned requests consideration of the withdrawn method claims 14-21
and 27-28 as they directly correspond to the apparatus claims 22-26. In the absence of
consideration, it is requested that the Examiner make a formal restriction requirement on
record as no formal restriction requirement has been made by the Office to date.

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Supplemental Drawings

In order to better place the present application in condition for allowance of all pending
claims, an additional figure, Fig. 2, has been submitted which depicts a flow chart
according to independent method claims 14 and 27. As the flow chart corresponds directly
30 to claims 14 and 27, and it is believed that no new matter is present in said claims for at
least the reasons above, it is concurrently believed that no new matter is added in the
drawings. Therefore, it is respectfully requested that the new drawing be added to the
application.

Amendments to the Specification

A new paragraph is added which recites new Fig. 2 in the specification. No new matter is believed to have been added.

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Objections to the Drawings under 37 CFR 1.83(a)

The drawings were objected to because there was no “inlet” as recited in claim 22. As the current amendments remove the limitation of the “inlet” from all of the pending claims it is believed that the drawings now satisfy the requirements of 37 CFR 1.83(a).

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Claim Rejections under 35 U.S.C. 112, first paragraph

The claims were rejected as the examiner did not find support for an inlet in the cooker for receiving coffee powder or tea in the specification. Without conceding the Examiner’s assertion, the claim limitations in question have been deleted from the claims to facilitate the prosecution of the application.

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Claim Rejections under 35 U.S.C. 112, second paragraph

Claims 22, 23 and 25 have been amended to address the Examiner’s concerns.

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Claim rejections under 35 U.S.C. 103

Claims 22-26 are rejected as unpatentable over Hsieh in view of Knepler et al. Applicant respectfully traverses this rejection.

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In order to support a rejection under 35 U.S.C. 103, the Examiner must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness three criteria must be met, the combination must teach each and every claimed element, there must be some motivation to combine the references and there must be a reasonable expectation of success. In the present case, the claims are patentable over the combination of Hsieh and Knepler et al. for at least the reasons that the combination fails to disclose or suggest each and every claimed element and there is was no motivation for one of ordinary skill in the art at the time of the invention to combine the references.

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Hsieh discloses a beverage dispensing unit which uses a pre-made concentrate to create a final beverage. The concentrate of Hsieh is not capable of being made in the apparatus.

Knepler et al. disclose a beverage server which brew a beverage, store the beverage in a storage vessel and dispense the beverage as brewed. The combination of Hsieh and Knepler et al. fails to disclose or suggest at least,

5 “a storage vessel ..., contains an air lock and is hermetic to reduce oxidation of the concentrate, and contains a heating means to maintain the concentrate at a predetermined temperature”.

Neither Hsieh nor Knepler et al. disclose a storage vessel with an air lock. Additionally, while Knepler et al. disclose a heating means in their 10/418,801 application filed 18 April 2003, there is no mention of a heating element in the corresponding provisional application
10 60/373,434. Knepler et al. also fail to disclose making a concentrate via an espresso method. Therefore, even if one skilled in the art were motivated to combine the references, the combination would still fail to render claim 22 unpatentable because the combination fails to disclose each and every claimed element.

Furthermore, there would have been no motivation for one of ordinary skill in the art at the
15 time the invention was made to combine the brewer of Knepler et al. with the dispensing apparatus of Hsieh. As the device of Knepler et al. produces a finished beverage, opposed to the required concentrate of Hsieh which is used in conjunction with other ingredients to produce a finished beverage, there would be no motivation to add the device of Knepler et al. to Hsieh. Therefore, even if the references fairly disclosed all of the claimed elements,
20 which they do not, the combination would still fail to render claim 22 unpatentable as there is no motivation to combine the references.

Claims 23-26 and 31 depend from independent claim 22. Therefore, claims 23-26 and 31 are patentable over the combination of Hsieh and Knepler et al. for at least those reasons presented above with respect to claim 22. Reconsideration and withdrawal of the rejection
25 of claims 22-26 is respectfully requested.

CONCLUSION

It is respectfully submitted that all pending claims are allowable over the prior art of record as the combination of Hsieh and Knepler et al. fail to disclose all of the features of independent claim 22 as described above, and the claim elements of independent claims 14 and 27 directly correspond to those of independent claim 22.

It is believed that the application is in condition for allowance. Notice of the same is earnestly solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Joshua Wert, Reg. No. 65880 at (571) 480-8372, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

/ Joshua P. Wert Reg. No. 65880/

Joshua P. Wert
Reg. No. 65880
Seppo Laine Oy
Itämerenkatu 3 B
FIN-00180 Helsinki, Finland
Tel. (US) +1 571-480-8372
Tel. +358 9 6859 5643
Fax +358 9 6859 5610
e-mail: Joshua.Wert@Seppolaine.fi

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